

IN THE CLAIMS: See Listing of Claims. This listing will replace all prior versions of claims in the application.

REMARKS

It is the position of the Office that the application contains claims directed to more than one species of generic invention and that these species lack unity of invention. The Office therefore requests an election of a single disclosed species of formula (I) as well as a single disclosed composition.

The Applicants elect neramexane (i.e., the species of Claim 12) as the single disclosed species of formula (I). Moreover, with the instant Amendment, the Applicants have limited the claimed compositions to "preservative free" compositions. Thus, the Applicants submit that the instant invention involves unity as the "special common technical feature" is a preservative free aqueous-based composition. Notwithstanding the Applicants' belief that an election of species with respect to a "single disclosed composition" may not be necessary in view of the instant Amendment, the Applicants also elect the aqueous composition of Claim 44.


The Examiner may withdraw the non-elected subject matter, without prejudice to its rejoinder during later examination and/or prosecution in a Divisional Application.

* * * * *

Accordingly, entry of the present Election and Amendment into the record of this application and favorable action on the merits thereof, are respectfully solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
MICHELE M. CUDAHY, Reg. No. 55,093

Dated: February 12, 2008
Customer No.: 25,666
Seventh Floor, Kalamazoo Building
107 West Michigan Avenue
Kalamazoo, MI 49007
(269) 382-0030

Enclosure: Check No. 76008 for One (1) Month Extension Fee; Listing of Claims;
and Postal Card Receipt

**THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER
OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION,
DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO
DEPOSIT ACCOUNT NO. 08,3220.**